



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

FUCE II, JOSEPH, *absolute trustee cestui que
trust/beneficiary Internal Revenue Service,*
Plaintiff,

vs.

STANLEY MIDDLEMAN, *d/b/a Freedom
Mortgage Corporation et. al.*, BRYON JAY
KOON, *Sheriff*, and OFFICE OF THE
SHERIFF, *Lexington County*,
Defendants.

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Civil Action No.: 3:22-3561-MGL

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
AND SUMMARILY DISMISSING CASE WITH PREJUDICE**

Plaintiff Fuce II, Joseph (Fuce), proceeding pro se, filed a complaint against the above-named Defendants regarding a state court foreclosure.

This matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge recommending the Court summarily dismiss this case with prejudice. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court

may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on October 26, 2022. Fuce objected on November 1, 2022. The Court has reviewed the objection, but holds it to be without merit. It will therefore enter judgment accordingly.

Fuce insists the Magistrate Judge erred in determining Fuce “requests this court overturn a foreclosure judgment concerning 2017 Dew Avenue[.]” Objections at 1 (quoting Report at 2). He avouches he also requested a full audit, return of his property, and damages.

Even if the Magistrate Judge failed to list all Fuce’s requested relief, Fuce has failed to show that his claim is not frivolous and should survive. *See* 28 U.S.C. § 1915(e)(2)(B)(i), (ii) (“[T]he [C]ourt shall dismiss the case at any time if the [C]ourt determines that . . . the action . . . is frivolous[.]”).

Fuce still asks this Court to insert itself in issues “inextricably intertwined with questions ruled upon by a state court.” *Plyler v. Moore*, 129 F.3d 728, 731 (4th Cir. 1997) (quotation marks omitted). In other words, although it is unclear exactly what sort of “audit” Fuce requests, to grant any of his listed relief, the Court would have to determine “the state court wrongly decided the issues before it.” *Id.* (quotation marks omitted).

After a thorough review of the Report and the record in this case under the standard set forth above, therefore, the Court overrules Fuce’s objection, adopts the Report to the extent it does not contradict this order, and incorporates it herein. Therefore, it is the judgment of the Court this case is summarily **DISMISSED WITH PREJUDICE**. All pending motions are **DEEMED AS MOOT**.

IT IS SO ORDERED.

Signed this 7th day of February 2023, in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.